

Supervisor Romaine Announces Lawsuit Against LIRR To Clean Up Contaminated Dump Site in Yaphank

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Environmental, Civic and Community Leaders Join In Call to Remove Contaminated and Hazardous Soil from Carmans River Watershed

Farmingville, NY - Supervisor Ed Romaine (at podium) held a press conference today to announce that the Town of Brookhaven will take legal action against the Long Island Railroad to compel a full remediation and removal of contaminated soil and hazardous materials from an unused LIRR yard in Yaphank. The site, which is only 500 feet east of the Carmans River and near the Wertheim Wildlife Refuge, has been found to contain extremely high levels of 29 contaminants including arsenic, lead, copper, mercury and zinc. The report also mentions that tests uncovered a "slag-like material of unknown origin" which is "most prevalent in the westernmost portion" of the property.

The action is the Town's first legal step under the federal Resource Conservation and Recovery Act (RCRA) statute to protect the environment by compelling the LIRR to clean up and remediate the toxic dumpsite rather than by just "covering it up" with a "cap." It is in response to the New York State Department of Environmental Conservation's (NYSDEC) determination that the site should only be "capped," leaving the contaminants in the ground. The Supervisor has called this recommendation "completely unacceptable" in light of sample testing that has shown contaminated material to be at least 25 feet thick. The lawsuit will be filed in the United States District Court, Eastern District of New York after the expiration of the 90 day advance notice to the LIRR that is required under the RCRA statute.

Supervisor Romaine was joined at the press conference by (left to right) Robert M. Calica, the Attorney representing the Town from Rosenberg Calica & Birney LLP, Yaphank Civic Association President Dan Rieckhoff, Brookhaven Town Chief Environmental Analyst Anthony Graves, Long Island Pine Barrens Society Executive Director Richard Amper, East Yaphank Civic Association President Mike Giacomaro and East Yaphank Civic Association Vice President Bob



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In making the announcement, Supervisor Romaine said, "The LIRR dumped hazardous materials on this site for decades, harming the environment and our residents with massive levels of contaminants on and under the ground. I have directed our Law Department to pursue this case until all the toxic material is safely remediated and the property is cleaned up before any further damage is done."

Long Island Pine Barrens Society Executive Director Richard Amper said, "The Long Island Railroad/DEC proposal is literally a cover up. It leaves the threat unchecked, and the people unprotected."

The federal Resource Conservation and Recovery Act (RCRA) was enacted together with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as "Superfund") after the Love Canal environmental crisis in upstate New York. It is designed to provide Environmental Agencies such as the federal Environmental Protection Agency (EPA) and the NYSDEC, as "Trustees of the Environment," with broad legal power to compel polluters such as the LIRR, to clean up contaminated sites, like the dump site in

Yaphank.

Although there is no record of the disposal operation at the site, the MTA's Remedial Action Work Plan, issued in December of 2012, states that it "was possibly used as a general disposal area for railroad-related materials generated from railroad track maintenance activities, as well as from electric and diesel train repair shops, from the 1950's to the early 1970's." Since the early 1990s, several investigations have been conducted at the LIRR site, including soil and groundwater sampling programs. The LIRR completed an Interim Remedial Measure (IRM) of the wooded area to the south of the Western Lowland Area, along the east side of River Road in the spring of 2007 in order to remove all significantly impacted soil. Interim Remedial Measures activities were conducted at the property and the adjoining residential property between July and November 2007.

Division of Public Information * Office of the Supervisor

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